

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LEROY K. HOLLEY,

Plaintiff,

-v-

5:23-CV-460

POLICE OFFICER
KENNY NOONE *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

LEROY K. HOLLEY
Plaintiff, Pro Se
19-B-0428
Five Points Correctional Facility
Caller Box 119
Romulus, NY 14541

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On April 13, 2023, *pro se* plaintiff LeRoy K. Holley (“plaintiff”) filed this 42 U.S.C. § 1983 action alleging that defendants violated his civil rights during an investigative stop or detention that seems to have ripened into an arrest and later, an apparent prosecution on state court criminal charges. *See* Dkt.

No. 1. Along with his complaint, plaintiff moved for leave to proceed *in forma pauperis* (“IFP Application”).¹ Dkt. No. 2.

On July 12, 2023, U.S. Magistrate Judge Thérèse Wiley Dancks granted plaintiff’s IFP Application and advised by Report & Recommendation (“R&R”) that plaintiff’s complaint be dismissed with leave to amend. Dkt. No. 17. As Judge Dancks explained, plaintiff’s complaint was a “haphazard collection of allegations” that failed to “provide any clear indication of the causes of action Plaintiff intends to assert and against whom.” *Id.* Although Judge Dancks observed that various immunity doctrines and limitations rules might bar some or all of plaintiff’s claims, she concluded that in light of plaintiff’s *pro se* status he should still be provided an opportunity to amend. *Id.*

Plaintiff has not filed objections, and the time period in which to do so has expired. *See* Dkt. No. 17. Upon review for clear error, the R&R is accepted and will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. Plaintiff’s complaint is DISMISSED with leave to amend;

¹ This action was administratively closed after plaintiff filed a document in which he recanted his Inmate Authorization Form. Dkt. No. 12. Thereafter, plaintiff filed a new Inmate Authorization Form, Dkt. No. 13, and the case was reopened, Dkt. No. 14.

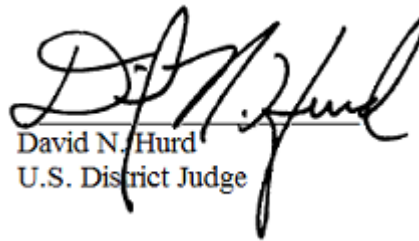
2. Plaintiff shall have thirty days in which to file an amended complaint that conforms with the instructions set forth in Judge Dancks's July 12, 2023 Report & Recommendation;

3. If plaintiff files an amended complaint within this thirty-day time period, the matter shall be REFERRED to Judge Dancks for further review and other action as appropriate; and

4. If plaintiff does not file an amended complaint within this thirty-day time period, the Clerk of the Court is directed to close this action without further Order of this Court.

IT IS SO ORDERED.

Dated: August 1, 2023
Utica, New York.



David N. Hurd
U.S. District Judge